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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

re Application of:

Come, et al.

rial No: 10/091,177

Filed:

OCT 1 7 2003

March 4, 2002

For:

THREE HYBRID ASSAY SYSTEM

Attorney Docket No. GPCG-P01-018

Art Unit:

1634

Examiner:

Lu, Frank Wei Min

# **CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below:

October 15, 2003

Date of Signature and of Mail Deposit

Mail Stop Petitions Commissioner for Patents P.O. Box 1450

Alexandria, VA 22313-1450

# PETITION UNDER 37 C.F.R. 1.48(a)

Sir:

Applicants respectfully request that Christoph Reichel be added as an inventor in the above-identified application.

# **REMARKS**

This petition is submitted in accordance with 37 C.F.R. 1.48 (a) to convert the aboveidentified application from an application of Jon H. Come, Frank Becker, and Nikolai Key to an application of Jon H. Come, Frank Becker, Nikolai Key, and Christoph Reichel. These four individuals are the actual inventors of the invention described and presently claimed in the application.

10/22/2003 JBALINAN 00000051 181945 10091117

01 FC:1460

130.00 BA

# **ATTACHMENTS**

Accompanying this petition are

- (a) statement by the added inventor, Christoph Reichel establishing that the error occurred without deceptive intent,
- (b) a statement by the assignees, GPC Biotech AG and GPC Biotech Inc. establishing consent,
- (c) a declaration/oath of inventorship executed by Christoph Reichel as required by 37 C.F.R. 1.63, and
- (d) a copy of an assignment from the added inventor (to be submitted for recordation separately).

# **CONCLUSION**

Applicants request that the petition fee in the amount of \$130.00 be charged to **Deposit** Account No. 18-1945.

Customer No: 28120 **Docketing Specialist** Ropes & Gray LLP One International Place Boston, MA 02110 Phone: 617-951-7000

Fax: 617-951-7050

Respectfully Submitted,

Weishi Li, Ph.D.

Reg. No. 53,217

PTO/SB/17 (11-01)  Approved for use through 10/31/2002. OMB 0651-0032  U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE  Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.							
.,		Complete if Known					
FEE TRANSMITTAL	Application Number				er 10/091177		
for EV 2002	Filing Date				March 4, 2002	March 4, 2002	
for FY 2002	First Named Inventor			d Inver			
Patent fees are subject to annual revision.		Exam			Lu, Frank Wei Min		
X Applicant claims small entity status. See 37 CFR 1.27	}						
	<b></b> -⊦	Group Art Unit 1634					
TOTAL AMOUNT OF PAYMENT (\$) 130.00		Attom	ey Do	cket No	o. GPCG-P01-018		
METHOD OF PAYMENT (check all that apply)				FEE	CALCULATION (continued)		
Check Credit Money Other None	3. A	DDITIO	ONAL	. FEES	1		
X Deposit Account Deposit	Large	Entity	Smal	I Entity			
Account   18-1945	Fee	Fee	Fee	Fee	Fee Description		
Number	Code	(\$)	Code	(\$)	Fee P	aid	
Deposit Account Ropes & Gray	105	130	205	65	Surcharge – late filing fee or oath		
Name The Commissioner is hereby authorized to: (check all that apply)	127	50	227	25	Surcharge – late provisional filing fee or cover sheet.		
X Charge fee(s) indicated below X Credit any overpayments	139	130	139	130	Non-English specification		
Charge any additional focts) during the pandency of this						_	
application	147	2,520	147	2,520	For filing a request for ex parte reexamination		
Charge fee(s) indicated below, except for the filing fee	112	920*	112	920*	Requesting publication of SIR prior to Examiner action		
to the above-identified deposit account.	113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action		
FEE CALCULATION	115	110	215	55	Extension for reply within first month		
1. BASIC FILING FEE	116	400	216	200	Extension for reply within second month		
Large Entity Small Entity	117	920	217	460	Extension for reply within third month		
Fee Fee Fee Fee Description  Code (\$) Code (\$) Fee Description  Fee Paid	118	1,440	218	720	Extension for reply within fourth month		
101 740 201 370 Utility filing fee	128	1,960	228	980	Extension for reply within fifth month		
106 330 206 165 Design filing fee	119	320	219	160	Notice of Appeal		
107 510 207 255 Plant filing fee	120	320	220	160	Filing a brief in support of an appeal		
108 740 208 370 Reissue filing fee	121	280	221	140	Request for oral hearing	_	
114 160 214 80 Provisional filing fee	138 140	1,510 110	138 240	1,510 55	Petition to institute a public use proceeding Petition to revive – unavoidable	-	
SUBTOTAL (1) (\$)	141	1,280	241	640	Petition to revive – unintentional	$\dashv$	
2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE	142	1,280	242	640	Utility issue fee (or reissue)	-	
Extra Fee from Eee Paid	143	460	243	230	Design issue fee	$\dashv$	
Total Claims -20** =   x   =	144	620	244	310	Plant issue fee	$\dashv$	
Independent 3** = 1	122	130	122	130	Petitions to the Commissioner 130	.00	
Claims Multiple Dependent	123	50	123	50	Processing fee under 37 CFR 1.17(g)	$\dashv$	
	126	180	126	180	Submission of Information Disclosure Stmt	$\dashv$	
Large Entity Small Entity Fee					Recording each patent assignment per		
Code (\$) Code (\$) Fee Description	581	40	581	40	property (times number of properties)		
103 18 203 9 Claims in excess of 20 102 84 202 42 Independent claims in excess of 3	146	740	246	370	Filing a submission after final rejection (37 CFR 1.129(a))		

**or number previo	SUBTOTAL (2) (\$)  ously paid, if greater, For Reissues, see above	*Reduced by Ba	sic Filing Fee Paid	SUBTO	TAL (3) (\$) 130.00
SUBMITTED BY				Complete	(if applicable)
Name (Print/Type)	Weishi Li, Ph.D.	Registration No. (Attorney/Agent)	53,217	Telephone	(617) 951-7404
Signature	625			Date	October 15, 2003

Other fee (specify)

For each additional invention to be examined (37CFR 1.129(b))

Request for expedited examination

of a design application

Request for Continued Examination (RCE)

	is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in s, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown
below. Dated: October 15, 2003	Signature: (Mary Jane DiPalma)

42 Independent claims in excess of 3

42 \*\* Reissue independent claims

over original patent

140 Multiple dependent claim, if not paid

\*\* Reissue claims in excess of 20

and over original patent

OCT 1 7 2003

A ADEMARY



# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Come, et al.

Serial No: 10/091,177

Filed:

March 4, 2002

For:

THREE HYBRID ASSAY SYSTEM

Attorney Docket No. GPCG-P01-018

Art Unit:

1634

Examiner:

Lu, Frank Wei Min

#### **CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

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October 15, 2003

Date of Signature and of Mail Deposit

Mail Stop Petitions Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

# STATEMENT OF CHRISTOPH REICHEL

Sir:

- I, Christoph Reichel residing at Am Klopferspitz 12, D-82152 Planegg, GERMANY, hereby states that:
- 1. I was inadvertently omitted as an inventor in the above-identified application, hereinafter called the "referenced application."
- 2. The referenced application was filed as an application of Jon H. Come, Frank Becker, and Nikolai Kley and presents claims directed to compositions and methods for isolating ligand binding polypeptides for a user-specified ligand, and for isolating small molecule ligands for a user-specified target polypeptide using an improved class of hybrid ligand compounds.
- 3. The inadvertent omission of my name as an inventor occurred without any deceptive intent on my part.

The undersigned declares further that all statements made herein of her own knowledge are true and all statements made on information and beliefs are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application of any patent issuing thereon.

Date: 07/10/03

Christoph Reiche



# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Come et al.

Application No: 10/091,177

Filed: March 4, 2002

For: THREE HYBRID ASSAY SYSTEM

Mail Stop Petitions Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450 Attorney Document No. GPCG-P01-018

Art Unit:

1634

Examiner:

Lu, Frank Wei Min

# Consent of Assignees

Sir:

Assignees, GPC Biotech AG, a corporation with executive offices at Fraunhoferstraße 20, 82152 Martinsried, Munich, Germany, and GPC Biotech Inc. with executive offices at 610 Lincoln Street, Waltham, Massachusetts, hereby consent to Petitioner/Inventors' request to amend the inventorship under 37 C.F.R. §1.48(a) to add Christoph Reichel as an inventor in the present application.

Respectfully submitted,
GPC Biotech AG
By: iv. Di Gel
Name: DAVID BANCHUFT
Title: VP IP EUNOPE
Date: 7th ochose 2003
,
Respectfully submitted,
GPC Biotech Inc.
By:
Name: Bernd Seizh ge
Title: President and CEO



# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE <u>DECLARATION FOR PATENT APPLICATION</u>

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

#### THREE HYBRID ASSAY SYSTEM

the specification of which was filed on March 4, 2002 and assigned Serial No. 10/091,177.

In the event that the filing date and/or Application No. are not entered above at the time I execute this document, and if such information is deemed necessary, I hereby authorize and request my attorneys/agent(s) at **Ropes & Gray**, One International Place, Boston, Massachusetts 02110-2624, to insert above the filing date and/or Application No. of said application.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by an amendment, if any, specifically referred to herein.

I acknowledge the duty to disclose all information known to me that is material to patentability in accordance with Title 37, Code of Federal Regulations, § 1.56.

#### FOREIGN PRIORITY CLAIM

I hereby claim foreign priority benefits under Title 35, United States Code § 119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

x no such foreign applications have been filed	
such foreign application have been filed as follows:	

Attorney Docket No.: GPCG-P01-018

# EARLIEST FOREIGN APPLICATION(S), IF ANY FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION

Application Number	Country	Date of Filing	Priority Claimed Under 35 USC 119
			Yes No
			Yes No
			Yes No

# ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION

Application Number	Country	Date of Filing

#### CLAIM FOR BENEFIT OF EARLIER U.S. PROVISIONAL APPLICATIONS

I hereby claim priority benefits under Title 35, United States Code §119(e), of any United States provisional patent application(s) listed below:

	no such	U.S.	provisional	applications	have	been	filed.
--	---------	------	-------------	--------------	------	------	--------

x such U.S. provisional application have been filed as follows:

Application Number	Date of Filing	Priority Claimed Under 35 USC 119
60/272,932	March 2, 2001	x Yes No
60/278,233	March 23, 2001	x Yes No
60/329,437	October 15, 2001	x Yes No

# CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATION(S)

I hereby claim the benefit under Title 35, United States Code, §120 of the United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose all information that is material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56 which became available to me between the filing date of the prior application and the national or PCT international filing date of this application:

Attorney Docket No.: GPCG-P01-018

x	no such U.S./PCT applications have been filed.
	such U.S./PCT application have been filed as follows:

Application Number	Date of Filing	Status (Patented/Pending/Abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

#### I hereby appoint:

Steven Baglio	51,426	Edward J. Kelly	38,936	John D. Quisel	47,874
J. Steven Baughman	47,414	Charles Larsen	48,533	Spencer H. Schneider	45,923
Mark W. Bellomy	51,452	Agnes S. Lee	46,862	Sanjay Sitlani	48,489
Johnny Y. Chen	46,614	Paul E. Lewkowicz	44,870	Wolfgang E. Stutius	40,256
Gregory Glover	34,173	Weishi Li	53,217	Anita Varma	43,221
William G. Gosz	27,787	Yu Lu	50,306	Matthew P. Vincent	36,709
Patricia Granahan	32,227	Robert A. Mazzarese	42,852	Dalila Argaez Wendlandt	52,351
David P. Halstead,	44,735	Christopher Natkanski	50,365		

all of **Ropes & Gray**, One International Place, Boston, Massachusetts 02110-2624, jointly, and each of them severally, my attorneys at law/patent agent(s), with full power of substitution, delegation and revocation, to prosecute this application, to make alterations and amendments therein, to receive the patent, and to transact all business in the U. S. Patent and Trademark Office connected therewith.

Please mail all correspondence to Matthew P. Vincent, Ph.D. whose address is:

Ropes & Gray LLP One International Place Boston, Massachusetts 02110-2624

Please direct telephone calls to: David P. Halstead, Ph.D. at (617) 951-7615.

Please direct facsimiles to: (617) 951-7050

Attorney Docket No.: GPCG-P01-018

Full name of fourth inventor	· · · · · · · · · · · · · · · · · · ·
Christoph Reicheh	
Fourth inventor's signature	Date 07/10/63
Residence	( 1
Planegg, Germany	
Citizenship Germany	
Mailing Address	
Am Klopferspitz 12	
D-82152 Planegg	
GERMANY	

#### ASSIGNMENT

WHEREAS, each of the Undersigned has developed certain inventions described in U.S. patent application titled:

#### THREE HYBRID ASSAY SYSTEM

filed on March 4, 2002, U.S. Application No. 10/091,177; and has full right to convey their entire interest, both legal and equitable, in and to said inventions free from all prior assignments, agreements, licenses, mortgages, security interests, or other encumbrances whatsoever; and

WHEREAS, GPC Biotech AG, ("ASSIGNEE"), a corporation having executive offices at Fraunhoferstraße 20, 82152 Martinsried/Munich, Germany, is desirous of acquiring the entire right, title and interest in and to said invention or inventions and any and all patents to be obtained therefor;

NOW, THEREFORE, in consideration of the sum of One Dollars (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the Undersigned, each of the Undersigned hereby sells, assigns and transfers unto said ASSIGNEE, its successors and assigns, their entire right, title and interest in and to said invention or inventions, as described in the aforesaid application and all applications resulting therefrom, including any and all divisions, continuations, continuations in part, substitute applications, and reissues or extensions thereof; and all resulting patents.

AND each of the Undersigned hereby authorizes and requests the issuing authority to issue any and all patents on said application or applications to said ASSIGNEE or its successors and assigns; the Undersigned agree(s) that the attorney of record in said application shall hereinafter act on behalf of said ASSIGNEE.

AND, each of the Undersigned further agrees, without any further payment or compensation by said ASSIGNEE or its successors and assigns, to communicate to said ASSIGNEE, its representatives or agents or its successors and assigns, any facts relating to said invention or inventions including evidence for interference purposes or for other legal proceedings whenever requested; to testify in any interference or other legal proceedings, whenever requested; to execute and deliver, on request, all lawful papers required to make any of the foregoing provisions effective; and to generally do everything possible to aid said ASSIGNEE, its successors or assigns and nominees to secure, obtain and enforce proper patent protection for said invention or inventions in this or any foreign country.

# GPCG-P01-018

Each of the undersigned hereby authorizes Ropes & Gray, of One International Place, Boston, MA 02110, to insert hereon any further identification information necessary or desirable for recordation of this document.

Inventor(s)

Date Signed

Witness(es)

O6/Oct./2003

Frank Becker

O7/10/63